IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4805 of 2007()

CMP.3489/2007 of J.M.F.C.-I,HOSDRUG
CRIME NO.78/07 OF AMBALATHARA POLICE STATION

.....

PETITIONER/ACCUSED

A.V.KUNHI RAMAN, AGED 45 YEARS,
S/O. KUTTIYAN, MEENGOTH, PULLUR VILLAGE AND POST,
KASARAGOD DISTRICT.

BY ADV. SRI.JAWAHAR JOSE

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4805 of 2007

Dated this the 10th day of August, 2007

ORDER

Application for regular bail. The petitioner faces allegations, inter alia, under Sec.308 of the IPC and the provisions of the Arms Act. The crux of the allegations against the petitioner is that on 1/6/07 at about 10 p.m. the petitioner attempted to cause injury to the de facto complainant by firing a pistol at the de facto complainant. The de facto complainant admittedly did not suffer any external penetrating injury. It is his case that some metal piece had hit him which he had produced before the Doctor. He did not go to the Doctor or the police on 1/6/07 when he was allegedly fired at and he was hit by the pellet. He went to the Doctor and the police station only on the next day. The petitioner moved this Court for anticipatory bail. That application was dismissed. As directed in the order, the petitioner surrendered before the Investigating Officer. He was arrested on 26/7/07. He

continues in custody from that date.

2. The learned counsel for the petitioner submits that the allegation of gun shot injury is, on the face of it, not tenable or palatable. The nature of the injury, the seriousness with which the injured himself had taken the injury may all be taken into consideration, submits the learned counsel for the petitioner. The learned counsel for the petitioner submits that, as a matter of fact, the petitioner have been the victims of aggression at the hands of the de facto complainant and his wife earlier. At any rate, there is no justification in the insistence that the petitioner must continue to remain in custody any longer, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that as many as three crimes have been registered in a span of six months between the period, the release of the petitioner on bail, at this stage, would endanger the law and order situation in the locality. The petitioner has got himself

admitted in the hospital and was hence not available for interrogation by the police. In these circumstances, bail may not be granted to the petitioner, it is submitted.

4. I have considered all the relevant inputs. The details of the other crimes have already been brought to my notice. The wound certificate has been read over to me. It is not disputed that no application for remand to police custody has been made before the Magistrate so far – till the learned Public Prosecutor got instruction. I shall scrupulously avoid any detailed discussions on merits about the acceptability of the allegations and the credibility of the data collected. Suffice it to say that, on an anxious evaluation of all the relevant inputs, I am satisfied that the petitioner can now be released on bail subject to appropriate conditions.

5. **In the result:**

(a) This application is allowed. The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall not be released from custody on the

strength of this order prior to 16/8/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

(ii) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(iii) Except for the purpose of complying with Condition No.(iv) below, the petitioner shall not enter the Sessions Division of Kasaragod for a period of one month from the date of his release.

(iv) The petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 1 p.m. for a period of three months from the date of his release.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge